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November 24, 2000

Via HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals - Room TW-A325
445 Twelfth Street, SW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: In the Matter of Implementation of Video Description of Video
Programming, MM Docket No. 99-339**

Dear Ms. Salas:

On behalf of EchoStar Satellite Corporation ("EchoStar"), enclosed please find for filing an original and eleven (11) copies of EchoStar's Reply to Oppositions to Petition for Reconsideration in the above-referenced matter.

Also enclosed is an additional copy of EchoStar's Reply, which we ask you to date-stamp and return with our messenger.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Rhonda Rivens Bolton
Counsel for EchoStar
Satellite Corporation

Enclosures

No. of Copies rec'd 07/11
List A B C D E

Before the
Federal Communications Commission
Washington, D.C. 20554

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Implementation of Video Description of) MM Docket No. 99-339
Video Programming)
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ECHOSTAR SATELLITE CORPORATION'S REPLY TO OPPOSITIONS

The Commission's goal of addressing the needs of visually impaired consumers is laudable. However, the Commission's video description requirements are an example of a salutary end pursued by disproportionate and ultimately ineffectual means, and for this reason, EchoStar requests that the Commission revisit the decision to promulgate the requirements.

The Oppositions to EchoStar's Petition for Reconsideration notably fail to rebut or even address the inconsistency of the video description requirements with Congressional intent regarding accessibility for disabled persons. The 1996 Telecommunications Act empowered the Commission to require providers to ensure access to persons with disabilities, but Congress qualified the access obligation by the "readily achievable" standard.¹ Yet the Commission imposed video description access requirements without applying any type of "readily achievable" standard. The reason for the Commission's failure to do so is of course clear: Congress did not articulate such a qualification with respect to video description. But

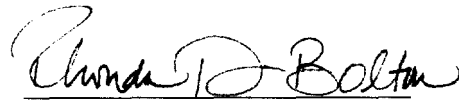
¹ See 47 U.S.C. § 255 (b) and (c).

Congress did not articulate a qualification because there was no access obligation to qualify – Congress did not authorize the Commission to create a video description obligation.²

Commission action that is inconsistent with Congressional intent cannot stand, no matter how laudable the Commission's goals. For the foregoing reasons and those set forth in EchoStar's Petition for Reconsideration, the Commission should reconsider its authority to promulgate the video description rules or at a minimum, revisit the substance of the rules.

Respectfully submitted,

By:



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November 24, 2000

² As EchoStar pointed out in its Petition for Reconsideration, the Commission's unauthorized initiative, unqualified by any statutory standard, has led to the perverse result that Direct Broadcast Satellite providers are regulated more heavily in this area than common carriers even though it is only these latter entities that are subject to an explicit statutory obligation with respect to access. See EchoStar's Petition for Reconsideration, *In the Matter of Implementation of Video Description of Video Programming*, MM Docket No. 99-339 (filed Oct. 11, 2000) at 7-8.

CERTIFICATE OF SERVICE

The undersigned, Rhonda Rivens Bolton, hereby certifies that on November 24, 2000, a copy of the foregoing Reply was sent via first-class mail, postage prepaid, to:

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